

TO: Mayor Stefan C. Densmore
Members of Village Council

FROM: Terrence M. Donnellon

RE: Legislative Agenda – November 9

DATE: November 6, 2020

Attached is the legislation for our scheduled Council meeting Monday, November 9, 2020.

1. Resolution No. 2020-18

A Resolution Continuing Program For Village And Employee Contributions To Health Savings Accounts

This Resolution extends our Health Savings Accounts Program for employees to incentivize employees in converting to and participating in the high deductible plan. The legislation was extended last year through December 31, 2020, and this legislation will provide the same extension through December 31, 2021 within our budget.

2. Mayoral Declaration of Emergencies.

In the past we have discussed trying to update our Code recognizing that many communities were caught short with the COVID-19 pandemic and the authority, or lack of authority, for enforcement of Director of Health Orders. This matter is not on the Agenda for approval at this meeting, but I have enclosed for you some materials to begin to consider changes we want to make.

Already we have Chapter 515 in our Code of Ordinances. This is very typical of many municipal Codes allowing the Mayor certain plenary powers when there is a declared public emergency. Many communities used this power to declare curfews this past summer.

Chapter 515 provides the foundation, but the first change may need to occur in Section 515.02 to add an additional definition for Public Health Emergencies. The two definitions within the current Code allow for controls during a civil disturbance or when there is a natural disaster. I would not qualify COVID as a man-made calamity, so it may be important to add some language in subsection (c) to qualify a public emergency as a public emergency declared by the Governor and/or the Director of Health. Keep in mind that Columbus is looking to tailor back the authority of the Director of Health.

In Section 515.03, the question becomes whether it should be mandatory that the Mayor assume commanding control of the police or whether we make it a softer *may*. (Section 515.06 authorizes the

Mayor to take command but does not order the Mayor to take command). It would also make sense in subsection (b) that communications include not only the Chief of the Police Department, but the Village Administrator. We would substitute out Fire Department for our fire service provider.

I would recommend in Section 515.05 that we not only require the Mayor to consult with the Chief of Police, but the Village Administrator, and it is recommended that the specific basis upon which the emergency be created should be outlined within the Proclamation.

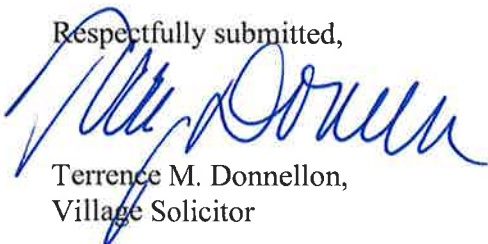
There may be some restrictions in the Second Amendment and the various State statutes which have been passed to preserve gun rights as to whether or not we can restrict firearms under Subsections 7, 8 and 9. It may be best to keep their language within the Ordinance recognizing that our authority may be limited rather than presuming it is limited and eliminating the right to impose these restrictions. We also may want to spell out under Section 515.07 the limitations we have experienced this past summer, such as wearing masks, social distancing, and so forth.

While the Ordinance is intended to empower the Mayor during an emergency, we also need to respect the role of our Council as a legislative authority. We have seen the give and take in Columbus, and we already have Section 515.09 which restricts the Mayor's Order to a period of two weeks unless extended by Council. Is two weeks a comfortable period of time? It would give Council adequate opportunity to meet and not require Council to meet on an emergency basis. I would also recommend that Section 515.09 acknowledge that Council's extension of the Order of emergency also has a limited duration and must be renewed.

The final section to review is the Penalty section. The current penalty is a Third Degree Misdemeanor which includes the possibility of confinement in jail upon conviction. Do we want to have step-by-step enforcement with the first level being a minor misdemeanor eventually graduating up to a Third Degree Misdemeanor? Do we also want to consider some of these actions to be civil penalties and not criminal penalties? We saw this debate this past summer when it was questioned whether or not wearing a mask should be a criminal offense or a civil fine.

Again, these are discussion points as we consider what steps to take to empower the Mayor and to include Council in the process.

Respectfully submitted,



Terrence M. Donnellon,
Village Solicitor

TMD/lld

Enclosures

cc: Ron Hirth, Village Administrator
Andy Lanser, Asst. Village Administrator

RESOLUTION NO. 2020 - 18

A RESOLUTION CONTINUING PROGRAM FOR VILLAGE AND EMPLOYEE CONTRIBUTIONS TO HEALTH SAVINGS ACCOUNTS

WHEREAS, on June 11, 2018, Council did enact Resolution No. 2018-20 establishing a Health Savings Account Program to incentivize employees to participate in the High Deductible Health Insurance Plan; and

WHEREAS, Resolution No. 2018-20 terminated the program effective December 31, 2019 unless renewed by Council; and

WHEREAS, by Resolution No. 2019-12, Council did renew and extend the program through December 31, 2020; and

WHEREAS, with the success of the conversion to the High Deductible Health Insurance Plan and the renewal of such plan for 2019-2020, Council does desire to continue the contribution plan as previously enacted and extend the program through December 31, 2021.

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Golf Manor, Hamilton County, Ohio, that:

SECTION I.

New employees who enroll in the High Deductible Health Insurance Plan ("HDHP") shall receive a one-time contribution equal to One Thousand Dollars (\$1,000) to be deposited by the Village to their Health Savings Account. Current employees who previously waived participation in the Village provided coverage and who received a one-time One Thousand Dollar (\$1,000) bonus payment under Resolution No. 2018-20 and/or Resolution No. 2019-12 may participate in the matching contribution program if they elect to enroll in the HDHP, but they will not receive an additional One Thousand Dollar (\$1,000) seed contribution at the time of enrollment. Current employees who elect health insurance coverage through the Village, but who did not previously participate in the HDHP and who did not receive the seed contribution in 2018-2019 or 2019-2020 may receive both the seed contribution of One Thousand Dollars (\$1,000) and participate in the matching program if they elect to convert their coverage to the HDHP.

SECTION II.

For those employees electing to participate in the HDHP who separately established their Health Savings Account through the Village, the Village will match all contributions to such plan up to Two Hundred Fifty Dollars (\$250) per calendar quarter. Such amount shall be contributed and paid to the employee's Health Savings Account at the time of the first payroll after the close of the calendar quarter. Employees may continue to make contributions to the Health Savings Account consistent with the rules established by the Internal Revenue Service up to the maximum amount permitted by the Internal Revenue Service.

SECTION III.

This Resolution shall take effect the earliest opportunity as allowable by law, and this contribution program shall remain in effect through December 31, 2021, unless appropriately renewed and extended by Village Council.

PASSED this _____ day of _____, 2020.

Mayor Stefan C. Densmore

ATTEST:

Anna Gedeon, Assistant Clerk

APPROVED AS TO FORM:



Terrence M. Donnellon, Solicitor

CHAPTER 515

Emergencies and Disasters

- 515.01 Purpose.**
- 515.02 Definitions.**
- 515.03 Duties of Mayor.**
- 515.04 Notice to Governor and Sheriff.**
- 515.05 Proclamation of emergency.**
- 515.06 Mayor may assume police command.**
- 515.07 Emergency orders.**
- 515.08 Additional assistance for Police and Fire Departments.**
- 515.09 Duration of emergency.**
- 515.10 Authorization of Village departments to act.**
- 515.11 Criminal offenses in time of public danger or emergency.**

CROSS REFERENCES

Riot - see GEN. OFF. 509.01

Misconduct at an emergency - see GEN. OFF. 509.05

515.01 PURPOSE.

The purpose of this chapter is to better define and authorize actions and procedures to be taken by the Mayor and other officials of the Village in time of public danger or emergency. Nothing herein shall be interpreted as limiting the authority of the Mayor or the Chief of Police or Fire Chief to take any appropriate action in time of public danger or emergency which he or they are authorized to take under any other provisions of any Village ordinance, the Village Charter, the Ohio statutes or Ohio Constitution, or the laws and Constitution of the United States.

(Ord. 94-8. Passed 7-25-94.)

515.02 DEFINITIONS.

“Public danger or emergency” means:

- (a) A riot, as defined in any degree by the Ohio Revised Code, any civil disturbance, disorder or other occurrence that constitutes a clear and present danger to the health, safety and property of the inhabitants of the Village, or substantially impairs the functioning of the Village government and its ability to protect the lives and property of the inhabitants; or
- (b) Any natural disaster or man-made calamity, or clear and present danger thereof, including but not limited to flood, fire, cyclone, tornado, earthquake or explosion within the corporate limits of the Village resulting in the death or injury of persons or the destruction of property to such an extent that extraordinary measures must be taken to protect the public peace, health, safety and welfare. An “absence” shall include the incapacity of the Mayor or Vice-Mayor, or inability to make immediate contact with the Mayor or Vice-Mayor.

(Ord. 94-8. Passed 7-25-94.)

515.03 DUTIES OF MAYOR.

- (a) In time of public danger or emergency, the Mayor, or in his absence, the Vice- Mayor shall assume the duty of commanding the police, maintaining order and enforcing the law, and in general perform such duties and immediately proceed to take all action necessary to preserve and protect the public peace and the lives, persons and property within the Village that are endangered or potentially endangered by the factors constituting a public danger or emergency.

(b) The Mayor shall establish and put into effect procedures whereby circumstances or events which constitute a public danger or emergency or which are likely to produce a public danger or emergency shall be immediately reported to him by members of the departments under this authority and control. Upon receipt of any information of circumstances or events which may constitute an actual or potential public danger or emergency, he shall immediately convey such information to the Police Department, the Fire Department and the Service Department, and shall also convey such information to all other members of Council as soon as it is practicable. He shall establish procedures to be used in his absence for making such notifications.

(c) The Mayor shall establish procedures for taking positive action to all of the appropriate departments of the Village under his jurisdiction to control and suppress riots and to protect the public peace and the lives, persons and property within the Village in times of emergency and shall keep all members of Council informed in detail as to these plans and preparations. He shall consult with all department heads in regard to the formulation of such plans and preparations for the purpose of providing a course of action that can be pursued effectively and expeditiously by the Village under his direction, or the direction of the Vice-Mayor if the Mayor is absent. The Mayor shall keep the Vice-Mayor informed of all plans and procedures for dealing with public dangers or emergency, in preparation for the possibility of the Vice-Mayor assuming such duties in the absence of the Mayor.

(Ord. 94-8. Passed 7-25-94.)

515.04 NOTICE TO GOVERNOR AND SHERIFF.

It shall be the duty of the Mayor to convey to the Governor of the State information which may come to him concerning existing or potential public danger or emergency in the Village which might require assistance from the Militia, National Guard or other State forces. It shall also be the duty of the Mayor to convey to the Sheriff of Hamilton County any information which relates to his duty to preserve the peace throughout the County, when such breach of peace or potential breach of peace is related to a public danger or emergency as defined in this chapter. The Mayor may seek and obtain military assistance from the Governor or from the Federal government, and law enforcement assistance from the Sheriff whenever such assistance is necessary to support the actions of the Police Department.

(Ord. 94-8. Passed 7-25-94.)

515.05 PROCLAMATION OF EMERGENCY.

When the Mayor or in his absence, the Vice-Mayor, determines that a public danger or emergency as defined in this chapter exists, he shall forthwith proclaim in writing the existence of the same and the time of its inception and shall issue proclamation thereof to the public through news media and such other means of dissemination as he deems advisable. Prior to the issuance of the proclamation as provided for in this section, the Mayor or in his absence the Vice-Mayor, shall, to the extent that time and the availability of the persons listed herein permit, confer and consult with the Chief of Police, Fire Chief, members of Council and other persons familiar with the circumstances that then exist.

(Ord. 94-8. Passed 7-25-94.)

515.06 MAYOR MAY ASSUME POLICE COMMAND.

In time of public danger or emergency, as defined and proclaimed above, the Mayor, or in his absence, the Vice-Mayor, is hereby authorized and given the consent of Council to take command of the police, maintain order and enforce the law and to do all things necessary or advisable in regard thereto. He may exercise any power or authority granted to Mayors, administrative heads of cities or police chiefs, by the laws of the State.

(Ord. 94-8. Passed 7-25-94.)

515.07 EMERGENCY ORDERS.

(a) The Mayor, if he has assumed command as provided in Section 515.06, or the Vice-Mayor, if he has assumed command in the absence of the Mayor, may, as he deems advisable in the interest of the public peace, health, safety and welfare, and in regard to the specific area or areas of the Village imperiled by the public danger or emergency or the Village as a whole, as he deems advisable, make and enforce orders to do any or all of the following:

- (1) Prohibit or limit the number of persons who may gather or congregate, or proscribe conditions under which such persons may gather or congregate upon the public highways or public sidewalks or any outdoor place, or in any motel, restaurant, place of public assembly or commercial establishment to which the public has access;
- (2) Restrict or prohibit movements within, above or beneath the area or areas which, in his judgment, are imperiled by the public danger or emergency;
- (3) Establish a curfew during such hours of the day or night as he deems advisable and prohibit persons from being outdoors during such curfew;
- (4) Prohibit or restrict the retail sale, distribution or giving away of gasoline or other flammable liquids or combustible products in any container other than the gasoline tank properly affixed to a motor vehicle;
- (5) Order the closing of gasoline stations or other establishments engaged in the retail sale, distribution or dispensing or giving away of flammable liquids or combustible products;
- (6) Prohibit or restrict the sale, distribution, dispensing or giving away of any firearms or ammunition of any character whatsoever;
- (7) Order the closing of any and all establishments or portions thereof engaged in the sale, distribution, dispensing or giving away of firearms and/or ammunition;
- (8) Prohibit or restrict the carrying or possession on the public streets or public sidewalks or in any public park or square or any other public place a weapon or any object intended to be used as a weapon, including, but not limited to firearms, bows and arrows, air rifles, sling shots, knives, razors, broken bottles, fire bombs, clubs, blackjacks, billies, chains or similar items;
- (9) Prohibit or restrict the retail sale, distribution, dispensing or giving away of acids, caustics or any chemicals or other substances capable of being used singly or in combination to cause injury or damage to persons or property.

(Ord. 94-8. Passed 7-25-94.)

515.08 ADDITIONAL ASSISTANCE FOR POLICE AND FIRE DEPARTMENTS.

The Mayor is authorized to contract with other governmental agencies and firms and corporations providing security or fire services for the furnishing of additional police and fire protection during times of public danger or emergency in addition to any such contracts already in existence. Such agreements may be reciprocal in nature.

(Ord. 94-8. Passed 7-25-94.)

515.09 DURATION OF EMERGENCY.

The public danger or emergency proclaimed in accordance with the procedures in this chapter shall exist until the official declaring such emergency determines that the event or occurrences constituting the public danger or emergency no longer exist, provided that such duration shall not extend beyond two weeks from the time of his proclamation unless extended by action of Council, and further provided that Council may, at any time it determines that the public danger or emergency no longer exists, declare it to be at an end.

(Ord. 94-8. Passed 7-25-94.)

515.10 AUTHORIZATION OF VILLAGE DEPARTMENTS TO ACT.

All departments of the Village and the personnel thereof are hereby authorized to exercise whatever powers and authority are necessary in order to carry out the orders of the Mayor or Vice-Mayor issued in time of public danger or emergency as set forth in this chapter.
(Ord. 94-8. Passed 7-25-94.)

515.11 CRIMINAL OFFENSES IN TIME OF PUBLIC DANGER OR EMERGENCY.

(a) No person, in time of public danger or emergency, shall knowingly fail to obey any lawful order of the Mayor or the Vice-Mayor issued under the authority of this chapter.

(b) No person, in time of public danger or emergency, shall knowingly fail to obey the lawful order of any police officer, militia man, fireman, member of the National Guard or other authorized person acting under orders or authority issued under the provisions of this chapter.

(c) No person, in time of public danger or emergency, shall knowingly interfere with any person lawfully acting under authority granted by this chapter or any lawful order issued under the provisions of this chapter.

(d) No person shall knowingly in any way interfere with any police officer, militia man, fireman, member of the National Guard or any other authorized person who in a time of public danger or emergency is engaged in the protection and preservation of life, person, property or the public peace.

(e) Nothing in this section shall be interpreted as preventing prosecution of any person under any other ordinance of the Village or State law.

(f) Whoever violates any of the provisions of this section is guilty of a misdemeanor of the third degree.
(Ord. 94-8. Passed 7-25-94.)
